

**Staff
Summary
Report**



**To: Mayor and City Council
Through: City Manager**

Agenda Item Number 20
Meeting Date: 03/29/01

SUBJECT: FREEDOM NIGHT CLUB #SIP-2001.21

PREPARED BY: Hector Tapia, Senior Planner (480-350-8331)

REVIEWED BY: Dave Fackler, Development Services Manager (480-350-8333)

BRIEF: This is the first public hearing for Freedom Night Club for a transfer of ownership for a use permit for a nightclub with live entertainment located at 919 East Apache Boulevard.

COMMENTS: **PLANNED DEVELOPMENT (0406)** Hold the first public hearing for **FREEDOM NIGHT CLUB** (Pen Johnson, property owner) for a transfer of ownership for a use permit for a nightclub with live entertainment at 919 East Apache Boulevard. The following is requested from the City of Tempe:

#SIP-2001.21 Use permit for a 10,028 s.f. nightclub with live entertainment.

Condition of Approval:

- #1. Use permit is non-transferable and is issued to the current owner of Freedom Night Club only.

Document Name: 20010329devsrh05

Supporting Documents: Yes

SUMMARY: On June 8, 2000, City Council approved a transfer of ownership and the Business was renamed from Club Pompeii to Freedom Nightclub. That approval included two conditions, one state that the use permit is non-transferable and the other one with a review time period until June 8, 2002. This request now is for a transfer of business ownership only and no changes are proposed on the current management or existing operation. No problems have been reported to the Police Department or Development Services during the last twelve months. The applicant has agreed on an updated Security Plan with the Police Department and should be signed prior to final Council action. During this application process, staff has not received any opposition or concerns regarding this request. Staff recommends approval subject to conditions.

RECOMMENDATION: Staff - Approval
Public - None

- ATTACHMENTS:**
1. List of Attachments
 2. History & Facts
 3. Description / Comments
 4. Conditions of Approval
-
- A. Location Map
 - B. Site Plan
 - C. Floor Plan
 - D. Letter of Explanation/Intent

HISTORY & FACTS:

<u>February 1975.</u>	Design Review Board approved the site plan and bldg. elevations for the new Sun Devil Lounge night club building at 919 E. Apache Blvd., which was relocated from the existing Holiday Inn Motel.
<u>July 14, 1975.</u>	Board of Adjustment (under Ord. 405) approved a one year variance to reduce the number of parking stalls needed on-site for the Sun Devil Lounge night club at 919 E. Apache Blvd.
<u>August 25, 1976.</u>	Board of Adjustment (under Ord. 405) denied a request to renew the variance to reduce the number of parking stalls noted above.
<u>February 23, 1977.</u>	Board of Adjustment (under Ord. 808) approved a request to reduce the size of parking stalls for the Sun Devil Lounge nightclub.
<u>April 27, 1983.</u>	Board of Adjustment approved a use permit for Clancey's Night Club to operate a penny arcade as an accessory use to the existing night club, subject to conditions.
<u>February 10, 1994.</u>	The City Council approved a use permit for Phoenix Entertainment Inc/Senior Phroggs to operate a nightclub with entertainment (dancing) subject to ten conditions.
<u>October 22, 1996.</u>	Planning Commission approved a use permit for Network One Entertainment LLC/Club Eclipse.
<u>November 22, 1996.</u>	The City Council approved a use permit for Network One Entertainment LLC/Club Eclipse operate a nightclub with entertainment (dancing) subject to ten conditions.
<u>March 12, 1998.</u>	The City Council approved a use permit for Club Pompeii to operate a nightclub with entertainment (dancing) subject to eight conditions.
<u>September 25, 1998.</u>	The City Council approved a patio expansion for Club Pompeii, subject to conditions.
<u>June 8, 2000.</u>	The City Council approved a use permit for a transfer of ownership and a time limit extension

DESCRIPTION: Property Owner - 919 E. Apache, Inc.- Pen Johnson
Business Owner – Blank Banana, LLC.
Applicant - Ryan Kibner, Blank Banana, LLC
Existing zoning - C-2, General Commercial District
Total bldg. area – 10,028 s.f.
Lot coverage - 11.1%
Total Parking required = 202 spaces
Total Parking provided – 208 spaces
Landscaping provided – 16%

Condition of Approval:

- #1. Use permit is non-transferable and is issued to the current owner of Freedom Night Club only.

COMMENTS: The transfer of ownership will enable the new owners to continue operating a bar/nightclub with a variety of entertainment options, including live music, dancing and a DJ. The hours of operation stay the same from 7:00 p.m. to 1:00 a.m. on Thursdays thru Saturdays. This specific location is adjacent to and shares cross access with the Holiday Inn site at Apache and Rural.

The applicant and the police department have met to discuss a security plan for the business and have agreed upon an updated security plan to include the new business owners. Staff has reviewed the applicant's letter of intent and finds this request consistent with the previous approval by Council and the current operation. Staff supports the request subject to the attached conditions.

RECOMMENDATION: Staff- Approval, subject to conditions.

**REASON(S) FOR
APPROVAL:**

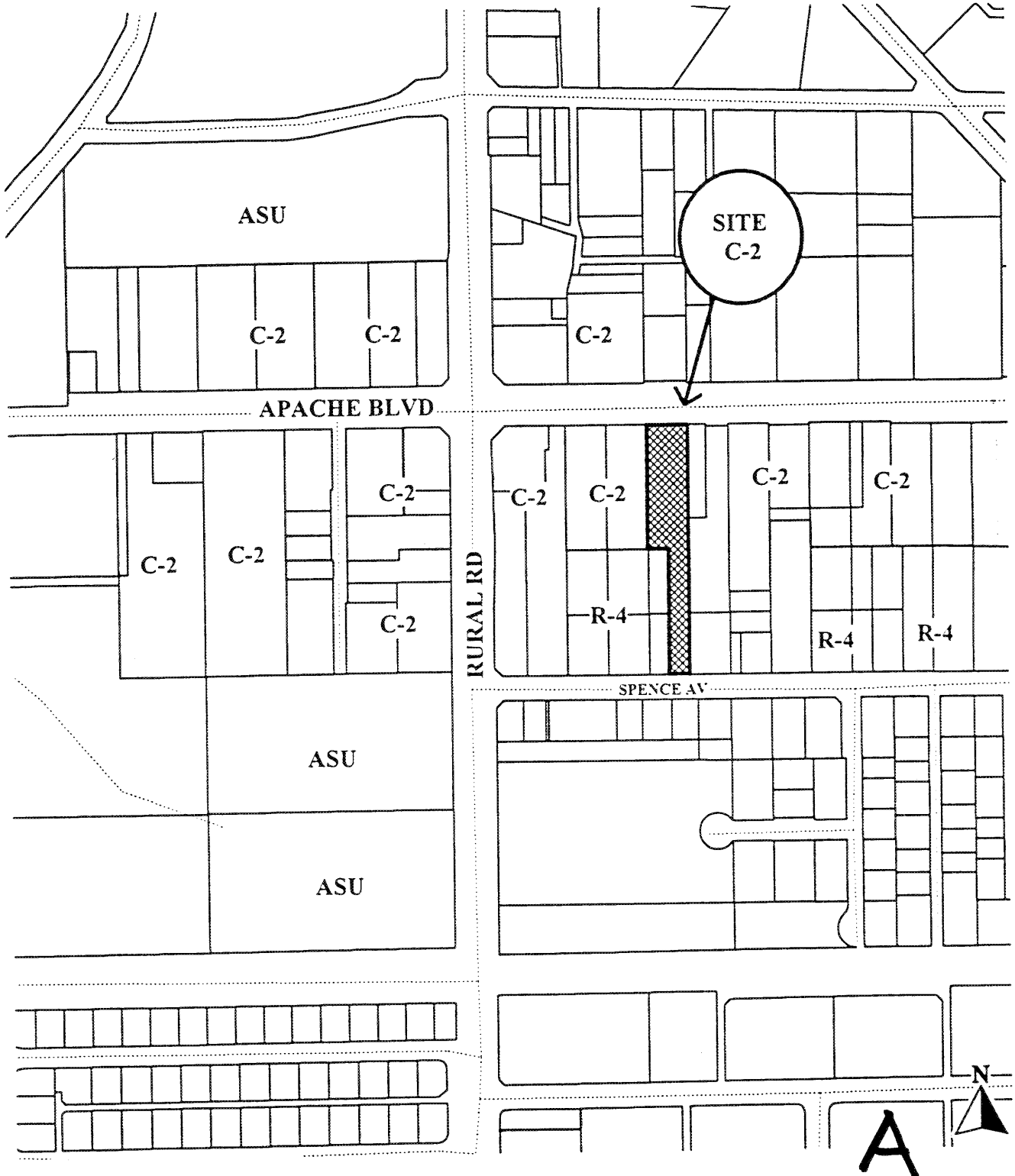
1. With a revised approved security plan and attached conditions in place, police concerns should be met and safety issues pro-actively dealt with.
2. The use permit appears to pass the required ordinance tests and if properly administered should not present any unforeseeable adverse effects.

**CONDITIONS OF
APPROVAL:**

1. Use permit is non-transferable and is issued to the current owner of Freedom Night Club only.
2. Any intensification or expansion of the use shall require the applicant to return to the City Council for further review.
4. On or before April 12, 2003, the operator/applicant shall return to City Council for review and compliance of the conditions stated within the staff report.
5. No outdoor speakers are allowed. Music generated from the live entertainment shall conform to the City of Tempe Noise Code.
6. Any significant verifiable police complaints (as determined by the City Attorney and Police Dept.) shall require the applicant to return to the City Council for re-evaluation of the use permit.
7. Security will be provided for the business and property as per the agreement approved by the police department.

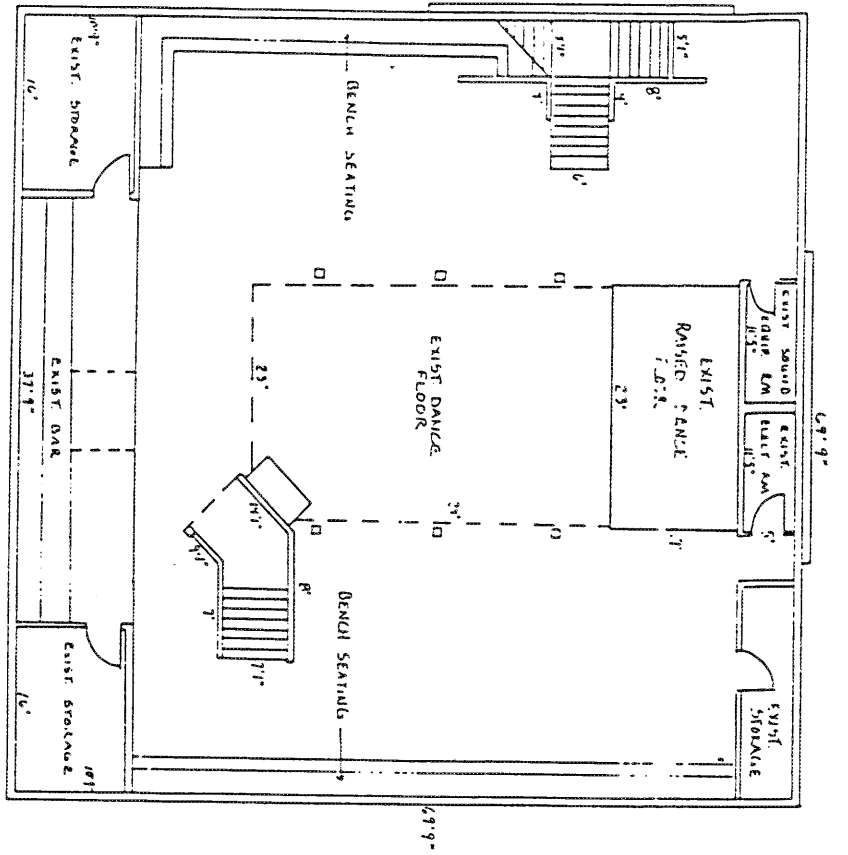
FREEDOM NIGHT CLUB

SIP-2001.21

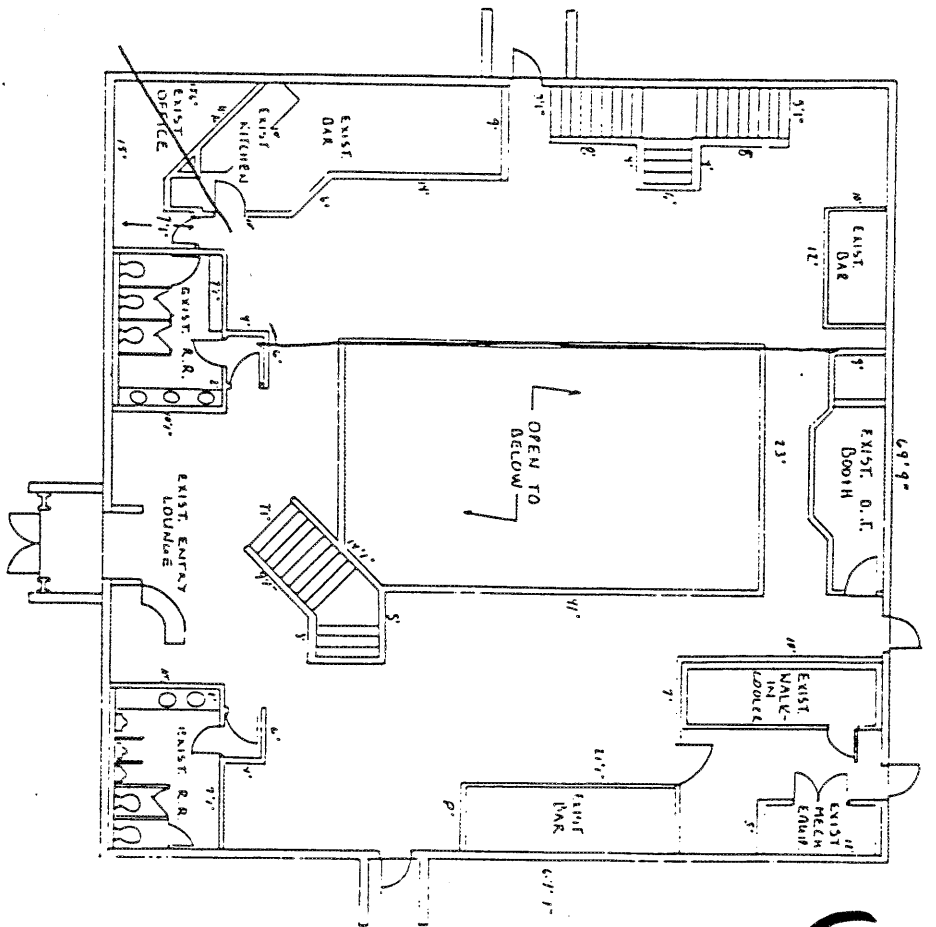


Location Map SEE OTHER SIDE FOR MORE INFORMATION

B

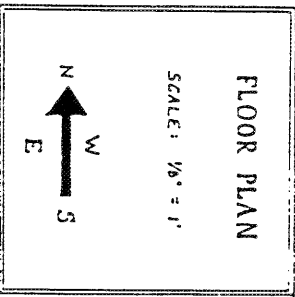


BASEMENT FLOOR PLAN



FIRST FLOOR PLAN

DTG 200 18000



PROGRESS

SP - 94.07

Black Banana LLC
919 E. Apache Blvd.
Tempe, AZ 85281

February 26, 2001

Terry Mullins, Deputy Director
Development Services
P.O. Box 5002
31 East Fifth Street
Tempe, AZ 85280-5002

Re: Freedom Nightclub Transfer of Ownership

Dear Mr. Mullins:

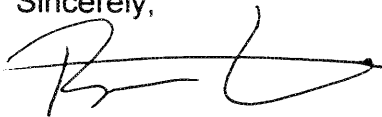
This is a letter in regards to the transfer of ownership of Freedom Nightclub from Fat Four LLC to Black Banana LLC. On February 06, 2001, Black Banana LLC signed a letter of intent to purchase Freedom Nightclub located on 919 East Apache Blvd. Fat Four wishes to sell the business that it intended to sell originally on June 6, 2000.

The new change in ownership will not cause any significant traffic to the adjacent areas. The property has more than the required parking for the building. The new owners will operate with the same type of "use" as had previous owners with more control. Security staff will have radio contact and will be patrolling the surrounding properties. Freedom will sign a security agreement with Tempe Police in order to meet the concerns of the City.

Our goal is to provide a nice, safe and comfortable dancing environment for our targeted patrons.

We look forward to continue a great relationship with Tempe and its community. Please feel free to call me if you have any questions at 602.326.0110.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ryan Kibner', with a stylized flourish at the end.

Ryan Kibner, Director of Operations
Black Banana LLC

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